

Aliabbas Bhamani & Zahira Rafiq
Ofgem,
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Canary Wharf,
London
E14 4PU

5 July 2023

Dear Aliabbas & Zahira,

EARLY STAGE ASSESSMENT OF ANTICIPATORY INVESTMENT

Thank you for the opportunity to comment on the issues raised in this consultation.

ScottishPower is a major UK energy company with renewable generation, retail supply and network interests. This response mainly reflects the views of our renewables business, ScottishPower Renewables (SPR). SPR is a leading developer of renewable energy generation, with over 3.1 GW of operational wind capacity across over 40 sites using onshore wind, offshore wind, solar and battery technologies. SPR has ambitious growth plans to expand its existing onshore wind portfolio and to invest in large new scale solar deployment and innovative grid storage systems including batteries. Building on our 714 MW East Anglia ONE offshore wind project we have ambitious offshore wind development plans with work underway on taking forward offshore wind projects comprising an East Anglia Hub, as well as seabed rights to develop three new offshore windfarms off the coast of Scotland with a total capacity of 7GW as part of The Crown Estate Scotland's ScotWind Leasing.

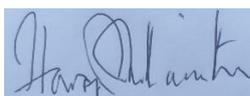
We are fully supportive of Great Britain's ambitious, but deliverable onshore and offshore targets for both 2030 and 2050 and ScottishPower has a key role to play in delivering upon the Government's decarbonisation ambitions.

We have set out responses to the specific questions posed in the annex to this letter and would highlight the following:

Multiple Users Scenarios - We note that Ofgem's consultation and guidance is exclusively based on situations where two users (offshore generator developers) are connecting to a coordinated solution. We believe that realistically, there will be shared offshore transmission connections involving more than two users. In this context it is important for Ofgem's policy and guidance to reflect the associated complexities at the early stage assessment (ESA) and any transfer of responsibility for construction of the coordinated solution between users.

Delay to the Initial User connecting - We believe Ofgem's policy and guidance for transferring responsibility for construction of coordinated assets is primarily based on a scenario of the initial user failing to connect. The more complex and uncertain situation is where a transfer of responsibility to later users is deemed necessary because the initial use is judged to have been delayed. Key issues include how delay is defined, how it is determined and the process for triggering the transfer of construction of shared assets. It is important for Ofgem to address these uncertainties as they may prevent a later user assuming responsibility for construction of a coordinated solution.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Sweet', is displayed within a light blue rectangular box.

pp Richard Sweet
Director of Regulatory Policy

EARLY STAGE ASSESSMENT OF ANTICIPATORY INVESTMENT – SCOTTISHPOWER RESPONSE

Question 1: Do you agree that the later user should assume responsibility for the construction of the coordinated solution should the initial user become delayed?

We agree that, in certain circumstances, there should be a mechanism that allows for change in responsibility for the construction of the coordinated solution should the initial user become delayed. However, such an approach raises some concerns, in particular the greater level of uncertainty and “grey areas” regarding what constitutes delay. The scenario where the initial user fails to connect is much easier to define. Furthermore, Ofgem does not appear to have considered the additional interactions and complications that may arise when there are more than two users involved. Accordingly, we request Ofgem provide further clarity on the points noted below many of which could pose significant barriers, preventing a later user from being able to assume responsibility for the coordinated solution:

Timeline and division of responsibility

- How definitive is the early stage assessment (ESA) guidance? For example, does it encompass all procedures for transferring responsibility for construction of the coordinated solution to the later user should the initial user become delayed. Is there scope or discretion for Ofgem to adopt additional or alternative arrangements?
- Who will make the decision as to whether or not the circumstances warrant a transfer of responsibility where there is a dispute between users on whether the initial user has been delayed?
- Will there be a point in the development and construction of the coordinated solution, beyond which it will be too late to transfer responsibility and if so, how will this be defined/established?
- What are the timelines for a transfer of responsibility?
- Will the transfer of responsibilities timeline differ depending on the stage the Anticipatory Investment is at ie, post contract award or novations?
- Will the implications for planning and consenting be accommodated in the transfer of responsibility to the later user? For example, the extent to which permits and land rights secured by the initial user can be transferred to the later user.
- What safeguards will be put in place for the later user to ensure the transfer of responsibility is not open to abuse by other parties?

Cost transfers

- What will happen with the costs already incurred by the initial user where the responsibility of the Anticipatory Investment (AI) is transferred to the later user?
- Does Ofgem envisage any circumstances where it undertakes a further cost assessment after the original ESA, for example, after the application by the later user for a reassessment of the costs of constructing the coordinated solution once

responsibility has transferred to the later user? Or does Ofgem envisage that the later user will be bound by the original cost assessment regardless of subsequent events?

Section 2.3 of the consultation describes that the later user is to assume the role of the developer when the initial user is delayed or fails to connect. As noted above, we ask that Ofgem provides clarity on the process and at what stage in the construction process it would be deemed as not being effective to switch responsibility. The length of any possible delay under such circumstances should be understood so that it can be factored into the investment and the planning decision-making processes by developers.

Where the initial user fails to connect, and the coordinated solution is no longer viable, we believe that a new ESA should be agreed with the later developer.

Moreover, we believe Ofgem should apply its proposed ESA approach to scenarios where there are more than two users connecting to the coordinated solutions and reflect the implications of this in its guidance eg, the criteria and process for selecting, which would be considered to be the later user to assume responsibility for construction.

Question2: Do you have any views on the Draft Early-Stage Assessment Guidance Document?

We consider the guidance approach to be clear on the steps to be followed by the initial user. However, as noted in our response to question 1 we believe there are omissions and scope for improvements notably:

- Defining what constitutes delay by the initial user and the process for determining this.
- Scenarios where there are more than two users connecting to coordinated solutions, in particular the criteria and process for selecting the later user to assume responsibility for constructing the coordinated solution including anticipatory investment.

We have set out specific comments and concerns regarding the guidance document in relation to Ofgem's costs assessment process in our response to question 3, in addition to this we would highlight the following risks and gaps that are represented below in **Error! Reference source not found.** and which we think require further consideration by Ofgem

Competing Applications to Construct Coordinated Solutions

In Appendix 2 of the ESA Guidance Document, applicants are defined as the "person(s) making a formal application for the Early-Stage Assessment" which implies that any user, not just the initial or earliest connecting user, could submit an application to construct the coordinated solution provided they have evidenced agreement of the other user(s). It would therefore, be helpful if Ofgem could clarify whether more than one user can be eligible to be an applicant and the process for determining the successful applicant where there is more than one submission. Alternatively, if Ofgem only expects to receive one application to construct the coordinated solution and associated anticipatory investment it would be helpful to clarify if this is limited to the earliest connecting user.

Pausing the ESA Review

Section 2.17 of the ESA Guidance Document, states "When additional information is requested, the review period may be paused or restarted." In such instances, we would like to understand if Ofgem will make the decision as to when the review period will be paused or restarted? If so, will any penalty be applied to the applicant?

Responsibility for Information in relation to the Later User(s)

Under Section 3.4 of the ESA Guidance Document which sets out the requirements for the technical assessment, it states that the applicant shall “provide a detailed account of the Anticipatory Investment being proposed alongside a specific set of criteria.” The criteria requires evidence for both initial and later offshore wind projects, including a timeline and risk log. Can Ofgem confirm who is responsible for the submission of the timeline and evidence of the offshore wind project that are developed by the later user. For example, if the applicant is the initial user, does Ofgem expect it would only discuss and query information in relation to later uses with the initial user or would later users assume responsibility for information relating to their own offshore schemes?

Generator Commissioning Clause (GCC)

Section 3.4 of the ESA Guidance Document, sets out the requirement for the applicant to “submit a detailed timeline for both the initial user and potential later user through to energisation of the system and proposed asset transfer date to the OFTO”. Can Ofgem confirm if the OFTO Transaction date is expected to be 18 months after the later or the initial user Generator Commissioning Clause (GCC). Furthermore, given the likely greater complexity of coordinated solutions relative to radial connections, are Ofgem open to considering extending the timeline of the GCC, where justified, beyond 18 months?

Resubmission of Applications

Section 3.19 of the ESA Guidance Document concerns Ofgem’s ability to request additional information from the applicant noting that Ofgem’s assessment may be unable to be completed if such information is not provided. We would welcome clarification in the guidance on whether, in such circumstances, the applicant would be able to resubmit the application with the requested additional information if there were justifiable reasons why Ofgem’s original additional information request could not be met.

Question 3: Do you agree with Ofgem’s approach to reviewing costs in the ESA?

We welcome the clarity given, and the assurances provided on cost recovery that an ESA process will give. Although the cost review in the ESA is based on early cost estimates due to the nature of the phase, the approach to the cost review appears consistent with the approach used for offshore transmission reviews. Whilst we welcome this consistency, we nevertheless continue to have serious concerns regarding Ofgem’s Cost Assessment Guidance which requires improvements as we have raised in this consultation response. Our consultation response builds on the feedback that we have provided directly to Ofgem as part of industry forum discussions.

In particular, we would highlight the following concerns:

- Section 3.16 of the Guidance states that the costs must be evidence based, can Ofgem please confirm what the evidence requirements will be. We would note challenges for providing evidence at this early stage of development include uncertainty over the final design and associated price on construction costs. This is due to the fact that the procurement process will not be finalised, and the contractor selection will not have commenced.
- We note that Section 3.18 of the Guidance states that the “outcome of the cost review stage is to set out the Anticipatory Investment cost figure, which includes any interest during construction (IDC), to be provided to the ESO and to the applicant in a decision.”

However, cashflows will be highly uncertain when the cost review takes place as no contracts will have been signed by this stage.

- If IDC to be used on projects is set by the fiscal year in which FID is taken, can Ofgem confirm what happens in the situation where the two projects have different years for their respective FIDs?
- Section 3.7 of the Consultation outlines the allowance for unforeseen costs at 5% which we believe is too low. Given the early stage at which these cost estimates are submitted and the complexity of delivering a coordinated solution relative to radial connections we think this allowance should be based on a higher percentage.
- Section 3.8 of the Consultation refers to an “ex-post review” in circumstances where the 5% threshold is exceeded. Can Ofgem please confirm the intention of the ex-post review in relation to coordinated solutions, for example, will Ofgem have the right to remove costs from an already agreed ringfenced sum? If this is the case, this position would appear to be in contradiction of the statement under Section 1.10 of the Consultation which states “The Early-Stage Assessment (ESA) seeks to provide developers with confidence that any Anticipatory Investment spent on coordinated infrastructure meets the following criteria: [...] will be treated as an allowable cost in any future cost assessment process”, in the ESA guidance document.

Question 4: Do you have any views on what should constitute a material change for projects?

In our opinion, any change that results in having an impact on the initially assessed value, would be a material change. Such material changes would include, but not limited to:

- Engineering changes in the windfarm or OFTO site which require variations of the specification of the OFTO equipment, such as increased footprints, different voltages, and variation to the design assumptions due to new information.
- Any change in the technology (DC/AC, Modular converter stations, etc)
- Law restrictions (change in H&S regulation, change of consents requirements)

Question 5: Do you agree with Ofgem’s proposed approach to projects which experience a material change?

We agree with Ofgem's proposed approach for “material change” as set out under sections 3.9 to 3.13 of the consultation and understand that Ofgem should be informed of any change to the initial proposal for the purposes of reassessment of the AI. We would however, request that Ofgem provide a clearer definition as to what will be considered as a material change.

ScottishPower

July 2023